

Applicant : Christopher P. Geisert
Appln. No. : 10/824,580
Page : 9

REMARKS

Claim 1 has been canceled, and claims 2, 3, 5, 7, 9, 10 and 19 have been amended. Upon entry of the above amendments, claims 2-20 will be pending and under consideration in the application.

Specification

The specification has been amended to eliminate internal inconsistencies, including those specifically pointed out by the Examiner, thereby overcoming the objections to the specification.

Claim Suggestions

The Examiner's suggestions for correcting claim informalities are appreciated and have been incorporated into the above amendments. It is believed that the claims now meet the formal requirements of 35 U.S.C. §112.

Claims Rejections Under 35 U.S.C. §102

Claims 1 and 2 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,535,495 (Oldfield).

Claim 1 has been canceled. However, it is believed that the subject matter of claim 2 is patentable over the Oldfield reference. Specifically, Oldfield does not appear to teach or suggest an inclined surface that extends from a lumbar region to a cervical region. Note that the upper surface of the Oldfield cushion has a concave curvature from the lumbar region to the cervical region, which includes a first section that is inclined downwardly from the lumbar region to a region intermediate between the lumbar region and the cervical region, a flat (non-inclined) region at the location intermediate between the lumbar region and the cervical region, and a third region that is inclined upwardly from the intermediate region to the cervical region. This is best illustrated in Fig. 2, which clearly shows that the upper surface of the Oldfield cushion does not have a surface that is inclined from the lumbar region 23 to the cervical region 14. To the contrary, the Oldfield patent expressly teaches (at column 3, lines 63+) that

Applicant : Christopher P. Geisert
Appln. No. : 10/824,580
Page : 10

"the deepest portion [of] the concavity 20 is located at substantially the midpoint of the lumbar" Thus, it is believed that claim 2 includes subject matter that patentably distinguishes over the Oldfield patent.

Claims 1-3, 5-12 and 14-17 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,390,682 (Iams).

It is respectfully submitted that the claims as amended patentably distinguish over the Iams patent, which does not teach or suggest a one-piece structure including a thoracic support portion including a cervical region, a shoulder region, and a spinal region. As can be seen by reference to Fig. 1, the Iams patent discloses an embodiment including three separate pieces. Specifically, the embodiment illustrated in Fig. 1 includes a lumbar support pivot 30, a thoracic support pivot 70, and a "cervical support pivot 130," which apparently does not actually provide cervical support. In another embodiment illustrated in Fig. 8, the "cervical support pivot 130" is omitted.

It is respectfully submitted that it would not be obvious to modify the soft tissue support system described in the Iams patent so that the separate pieces are integrated into a one-piece structure. Such modification appears to be contrary to the objectives of Iams, which is to provide a support system comprising a plurality of pivots that may be used singly or in particular combinations "to apply mild spinal tractions to selected regions of his or her own spine, to shape the spine and the resulting body posture, and to apply mild pain relieving pressure to the spine, ribs, and other laterally adjacent regions of the back."

It should also be noted that the various pieces or pivots are also referred to as fulcrums, implying that they are point supports on which a lever turns, the lever in each case being a portion of the human body. In order to pivot a portion of the human body on a fulcrum or pivot, it is necessary to provide unsupported areas for the lever (body). Thus, integrating the various pieces of the Iams soft tissue support system is contrary to the objectives of Iams and, therefore, would not have been obvious to one having ordinary skill in the art.

Thus, it is believed that the claims as amended are patentable over the Iams reference.

Claim 5 has been rejected under 35 U.S.C. §103 as being unpatentable over Oldfield in view of Iams.

Applicant : Christopher P. Geisert
Appln. No. : 10/824,580
Page : 11

It is believed that dependent claim 5 is allowable for the reasons generally set forth above with respect to independent claim 2. Further, claim 5 has been amended to require that the head support portion is integral with and adjacent said thoracic portion. The combination of Oldfield and Iams does not suggest the claimed support device having an integral head support portion.

Allowable Subject Matter

The Examiner has indicated that claims 4, 13 and 18-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It should be noted that claim 18 is independent and has not been rejected. Accordingly, clarification is requested.

CONCLUSION


It is respectfully submitted that the application has been placed in condition for allowance and notice of the same is earnestly solicited.

Respectfully submitted,

CHRISTOPHER P. GEISERT

By: Price, Heneveld, Cooper,
DeWitt & Litton, LLP

November 11, 2004
Date


Gunther J. Evanina
Registration No. 35 502
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

GJE/daw